App. F. IX-4

1930.31
(Law)

File No. 103.30

Serial Nos. 1 – 6

Previous References

Misc 138-14-7-18
" 16-25-1-6
Law 8-27-1-5
Misc 82-84-1

Later References

Misc 217-31-12.
Law 103-30-7
Misc 258-33-1-2
Misc 4-4-3, 4, 7, 8

(34)

Misc 270-35-3.4.

General and Revenue Secretariat.

Serial Nos. Six

Part B for October 1931

SUBJECT.

Estates of late Nagadi Krishnappa, Chikballap

Law File No 103 of 1930.

Lr no 342/30-31 dated 5th Sept from the PPr Bangalore forwarding a plaint in the matter of the Estate of the Nagadi Krishnappa

(1) the plaint duly approved the D.C Kolar

ISP 10/9

(2) Has the institution of this suit been sanctioned by post ?

(3) For favour of putting up previous papers, if any, ...

Revr Branch) DSP 10/9

(4) Kind attn is invited to Mysore-2 letter no 1119 dt 11/1/28 addd to M.C. The D.C. has been asked to obtain orders of the Dt Court under Sec 92 C.P.C. forthwith as the Trusts proposed are owned by the Nagadi Krishnamma of Chikk

Law Secty)

Lakshmamma case be kindly put up -

1) The Misc file 16-25-86 I No 6 that below shows that instructions were issued to the Asst Com on 11-1-28 to have suit filed under Sec 92 C.P. Why has there been a delay of over 3 years?

2) If no information on any of these points is available here, a draft calling for the same from the PP Bhore may be put up -

General and Revenue Secretariat | File No.

Serial No.

To

The PPr. Bangalore

No. P. 5373 d 5.3.31 requesting to send a copy of the will of Nagadi Krishnappa mentioned in para 2 of the dft plaint.

Letter no 395/30-31 dated 9.3.31 from the PPr. Bangalore stating that he has addressed the Sub-Division office of Chickballapur to send a copy of the will.

(4) PPr points out that he is unable to furnish information in the matter of delay in filing the Suit Copy of the will may perhaps be awaited

TSD 9/3

9/3 Dist A Hill 31/3

Mg. Br. for favour of putting up the file relating to G. O's required in para 5

ISD
2/4

Law file of 1977 re: the notice issued on behalf of Lakshmamma is put up. The other two files as required in para 5 supra are not traceable. Relevant slips are however put up. A Copy of the writ is traced and flagged. But it is illegible and cannot be made out easily, part of it being torn out.

ISD1.

Collection Mez 138-14-18 Containing
S—o dy 17-6-19 is stated to have been
taken out of the Mez Br for D.N. 152/25
& this letter was recorded on 10/10/
2) The last time for which Mez
138-14-18 seems to have been taken
for reply is in connection with Law
8-27-5. (Vide markings on the
cover of the particular file). It is
Hon Law Secy's office see this minute
Their own old reply file etc can
in the Br, after 8-27-5 is received in Sp
8-S
17/4/31 M. TSD Please find out
Mez 138-14-18 & put up
DM
17.4.31

2) The Mez. file is not traceable in
records, much less in the branch.
TSD..

The Inuz: Dela 138-14-7 & 18 prepared to above
with the kindred file Petition Dela of Luk
Ahmuuna - sicks of late Nogudekeeshu
ffe as herewith put up & returned the
connected records

DJ
07/4/31

General and Revenue Secretariat | File No. | of 193

Serial No.

Dft to the Mng Comm^r is put up.

TSD
11/5

Fair draft, please

MP
1/5

Typed dft sent?

TSD
11/5

28) Nagad Krishnappa left certain of his properties in Chickballapur in trust for an "annachatram" etc under a will of 1903 He died in 1904 & as per request of the legatee his sister, Govt took over management in 1906. The properties as well as the will were a source of much litigation which finally was disposed of by the Ch ct in favour of the Charity. In 1919 Govt found that the objects of the trust could better be achieved if the scattered properties were sold & the sale proceeds invested in govt securities.

29) In 1928, the previous Legal R^r opined that Govt as trustees had no power of selling the properties & advised the filing of a suit under Regn C.P. Code. Now a draft plaint is sent for scrutiny by the PP Bangalore. The copy of the will in the records is illegible. Draft is

therefore put up to the Hon Com.
requesting for a fair copy -
After its receipt the question can
be examined & the draft plant
scrutinised & submitted for
approval -

2) The draft now put up may
kindly be appd.

Legal Rv

Appd. DM
1/8/73

D.M. 1/8

Issue
MM

General and Revenue Secretariat | File No. | of 193

Serial No.

33) It is on the basis of this opinion that it is now proposed to file a suit under sec 92 of the code of Civil Procedure for obtaining sanction of the Dt court to the sale of the properties.

34) I beg to submit the question perhaps needs further consideration. It is no doubt true that the powers of a trustee under the general law is limited as indicated by the Hon'ble Mr Nagappa in his note referred to above But in this case Govt is not a mere trustee The charity created by the testator has been held to be a public trust and it is in pursuance of the wish of the donor that Govt have taken over the management of this trust. By virtue of the definition of a Muzarai institution in Reg VII of 1927, it follows that this charitable institution so long as it is under Govt management is deemed to be a Muzarai institution, the chief Controlling authority for which is under sec 3, the Government. As such Govt is more than a trustee and ~~powers~~ must be deemed to possess higher powers.

35) I do not think Govt, as the chief Controlling authority in all matters connected with this institution, is prevented either by the general law of trusts or by the provisions of Reg VII of 1927, from selling these various

properties scattered as they are in different places and utilising the proceeds thereof for the purposes of the trust.

36) If approved the Government Advocate will be consulted in the matter.

Chief Secy) Pony
4/8/31

37) Yes Pony 10/8

38) Forwarded with Compliments to the Government Advocate for favour of opinion as to the necessity or otherwise of filing a suit in the matter.

PJO
D'Exposada
for General Secretary
6/8/31

Returned with compliments.

39) The way the proceedings have gone ~~xkk~~ on all these years has introduced a lot of complications into the case and a suit in a civil court would lead to greater complications still. It is, therefore, desirable to do the needful without filing a suit in the District Judge's Court.

40) There are no express authorities for the position that a Trustee can sell the Trust properties except under extraordinary circumstances which are not present in this case.

General and Revenue Secretariat | File No. of 193

Serial No.

41) As the Government has assumed charge of the charity, this has become a Muzrai Institution coming under the Muzrai Regulation. It cannot be said that the Government occupy the position of an ordinary Trustee. They have very extensive powers and are entitled to sanction alienations, which, ordinarily, would be unauthorised (c.f. Section 9, re: Inam Lands). They are entitled to frame a scheme and pass such other ancillary or necessary orders as the case may require in the interests of the institution, (section 18). Most of the powers which a Civil Court could exercise under section 92 of the Civil Procedure Code can be exercised by the Government under the Muzrai Regulation. The Government therefore, occupy a higher position than that of a mere Trustee. When, according to the Muzrai Regulation, they can exercise such higher powers and interrere with alienations made by Muzrai Institutions, it would not be straining the provisions of the Regulation if they claim powers of conversion etc., over the endowed properties.

42) Further, the object of the Trust has not been carried out all these long years mainly because of the practically unproductive character of the properties and their scattered situation.

43) By selling those properties and investing the sale proceeds in an advantageous manner, a decent income could be derived for the benefit of the surviving beneficiary and for enabling the Govern-

Government to carry out the object of the donor or Testator.

44) As the Testator puts it in the will, his - main concern is that his object should be carrie out and any course that is conducive to it may b adopted by the Government.

45) A suit in the Civil Court under section 92 Civil Procedure Code seems to be, therefore, unnecessary.

Bangalore,)
1-9-1931.)
/S

50. In view of the opinion
expressed both by the Law Dept't &
the Govt- advocate, action may be
taken by the Muni Com'r to sell the
properties instead of placing a ban
the proceeds being invested in
approved securities

9/9

55 — For perusal of cross-cases in P.1691/Law — & 1879/31.

23/9. (H. Secy) 23.9.31.

56

Copy marked & Exhibit (No P.1691 & 18.9.31) addressed to the M.C. is retained for ref^e & file return

23/9 (Law Secy)

General and Revenue Secretariat | File No.

Serial No.

GENERAL SECRETARY
30 SEP 31
No. 11665

TYPING SECTION
7. OCT. 1931
GENL. & REV. SECTT.

60 Draft may be appd
Gen Secy)
30/9
6/10

61. Issue
7.10

To

The Pltr. B'lore

No. P. 7098 dated 10.10.31 returning the bill and informing him that it is to be sent in the first instance to the office who instructed him in the matter

No 342/30-31
encl 1 file

3125 / 830 Bangalore 5-2-1931.

From

The public prosecutor
Bangalore

The Legal Remembrancer and
Secretary to Government,
Law Department,
Bangalore.

Re: In the matter of the estate of the late Nagadi Krishnappa.

I have the honour to forward herewith the plaint in the above case for your and return This was duly approved Deputy Commissioner, Kolar as to facts se. The entire records are sent herewi

I have the honour to be
Sir,
Your most obedient Serva

B. N. Narasimha Murthy
public prosecutor,

In the court of the District Judge
Bangalore

O.S. No /2031

Plaintiff

Deputy Commissioner
Kolar

Nagadi Lakshmma
Sister of Nagadi
Krishnappa
Chikballapur.

Under section 92 of civil procedure code plaintiff begs to state as follows:-

1. Address of parties for service of Summons stated is as above.

2. One Nagadi Krishnappa of Chikballapur executed a will dated 11th October 1903 by which a trust was created with respect to his properties with the object of feeding Brahmins in his house. The properties were also liable for payment of an annuity to his sister Nagadi Lakshmma, the defendant during her life time

3. The testator Nagadi Krishnappa died in 1904 and his wife's death also took place within 8 days of his death.

The defendant applied to the Government of Mysore to take over the management of the properties of her brother in accordance with the directions of the Testator in the will to the effect that the properties must be taken over by the Government for the purpose of carrying out the Trust.

4. It was in 1906 that the Government was pleased to order that the properties may be taken charge of.

5. In the meanwhile one Narayappa claimed to be the heir of the Testator and applied for succession certificate in Munsiff's Court, Chikballapur to collect the debts due to Nagadi Krishnappa. The defendant herein contested the above proceedings and the matter was finally settled in RA 6 & 7 of 1910-11 on the file of the Chief Court and the claims of Narayappa were negatived.

6. After the properties of Nagadi Krishna were taken possession by the Government his creditors filed a number of suits and they were defended by Government

one fourth of the ~~expected~~ outturn for a number of years.

7. The lands were demanded on lease for petty ~~rents~~ and they lay fallow for several years The income from the leases of the lands was just enough to meet annual assessment godi cess dues and the plaintiff recommended to the government for the sale of useless lands and for investment of money to be realised in the sale proceeds by deposit in Government Securities and Government gave Sanction for the same under order No 2201/138-4-9 dated 20-3-1911 But the defendant filed a suit for injunction to stop Sale proceedings and sales were stopped. Ultimately defendant gave Consent before the Amildar on 17-1-1918 as to her willingness to accept half net income of the estate.

8. The ~~expected~~ income every year is Rs 700. Out of this amount Rs 200 has to be paid towards land Revenue to Government including local cess and the balance left of about Rs 500 will be hardly sufficient to open "Brinda Chatram" in the house of the donor. But if the lands are sold away, the lands will fetch about Rs 20,000 on the whole and the investment in the Savings Bank

will yield annually about Rs 1000 and
payment of Rs 200 for assessment and etc will
be saved. But as long as the defendant
is alive a moiety will have to be paid to the
Hence she is a party to this suit as
She is the interested person in the property.

9. One K Narayappa, son of Narayappa
had instituted suit no 74/29-30 against
plaintiff and two others for partition of
some of the property in Chickkaballapur
Munsiffs' court but the suit was compromised
to the effect that half of the property
should be delivered to the possession as order
by the court and that he would be paid
Rs 30/- for past mesne profits and
the suit against two others was withdrawn
by him. The suit was decided on 20/8/31
a certified copy of which is annexed here

11 ~~Hence~~ This Honourable courts sanction

arose therefore within the jurisdiction of this Honourable court since the year 1928.

12. The value of the suit for the purposes of court fee is Rs 500 and the court fee Rs 50/- is paid for the suit accordingly.

13. The plaintiff therefore prays for a decree authorising the plaintiff to sell the trust properties described in the schedule annexed hereto with the exception of half of the portion of the property at Chickkaballa decreed in favour of K. Narayanappa referred to in para 9 above and to invest the funds realised by the sale proceeds by depositing in Mysore Government authorised securities to effectually administer the trust and fulfil the objects of the Teskalu.

(2) Directing the costs of the suit to be paid from the defendant's the trust properties or both

Appendix F G—1

SUBJECT.....

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.....

Section Loans

File No. 103-30

Diary No. of letter replied to.....

Serial No. 2

No. 3873

General and Revenue Secretariat

( )

the *193*

To

The P.Pr. B'lore

Date of issue 5/3/31

Sir,

Signed by M. Nag

With reference to your letter no 342/30-31 dated 5.2.31 in the matter of the Estate of the late Nagadi Krishnappa, I am directed to state that instructions were issued to the Mysore Commr. on 11.1.26 to have a suit filed under sec. 92 C.P.C. and to enquire why there has been a delay of over 3 years in the matter.

A copy of the will

List of enclosures.....

Copied by.....

Examined by.....

[over

in para of your draft please submitted
available in these words and if may
~~for appeal may kindly be~~
be forwarded reference agency
~~sent for information and~~

The matter may kindly
be treated as immediate.

5th March 1931.

5373

The Public Prosecutor,
B a n g a l o r e.

With reference to your letter No. 342/30-31 dated 5th Feb-
ary 1931 in the matter of the Estate of the late Nagadi --
ishnappa, I am directed to state that instructions were issued
e Muzrai Commissioner on 11th January 1928 to have a suit filed
der sec. 92 Civil Procedure Code and to enquire why there has
en a delay of over 3 years in the matter.

A copy of the will of Nagadi Krishnappa mentioned in para 2
your draft plaint is not available in the records sent and it
therefore be forwarded for reference at once.

The matter may kindly be treated as immediate.

I have the honor to be,

Sir,

Your most obedient servant,

For Legal Remembrancer and
Secy. to Govt.Law Deptt.

4303/P/30 Bangalore 10

M 395/30-27

From

The public prosecutor,
Bangalore

To

The Legal Remembrancer and
Secretary to Government,
Law Department,
Bangalore

P. 5373

Sir,

With reference to your letter No. P 5373/Law of the 5th instant I have the honour to state that I am not in a position to furnish information on the matter referred to in para 1.

As regards the will of Nagadi Krishnappa I have written to Sub. Division officer, Chickballapur to send me a copy. The same will be forwarded to you as soon as

I have the honour to be,
Sir,
Your most obedient Servant

B. N. Rao
Public prosecutor
Bangalore

From

Leave

The public prosecutor
Bangalore

To

The Legal Remembrancer
and Secretary to Governme
Law Departmen
Bangalo

Sir, Re: In the matter of the estate of late Nagadi Krishnappa

I have the honour to state that a reference was made to the Sub-division offic Chikballapur, requesting him to send the cop of the will executed by late Nagadi Krishna The Sub-division officer, Chikballapur repli that the will is not available in his office and on enquiry it is learnt that a copy of is available with the sister of the deceased Nagadi Krishnappa & That inspite of persuasion She is not willing to part with it

I have the honour to be
Sir,
Your most obedient Serv

B.N. Veera
public prosecutor,
Bangalo

122/15

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat

Dated, Bangalore, 4th May 1931.

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

I am directed to invite reference to the Financial Secretary's letter No. 1119 uz 16-25-6 dated 11th January 1928 authorising the taking of proceedings under section 92 Civil Procedure Code for getting late Nagadi Krishnappa's properties in Chikballapur sold and to state that a draft plaint in the matter has been received here now from Public Prosecutor Bangalore for scrutiny. The records sent therewith contains a copy of the will, which however is partly torn and partly illegible and cannot be deciphered. The Public Prosecutor,Bangalore who was asked to obtain and send a clear copy says that the Sub Division Officer writes that he has no copy available in his office. The will was the source of much litigation, its gennuiness having been finally affirmed by the Chief Court in R.A. 6 and 7 of 1910-11-

Since an examination of the terms of the will is now necessary I am directed to request you to obtain and send a copy of it immediately.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- P.Mahadevayya.
Legal Remembrancer and Secretary
to Government Law Deptt.

c.n.

Memo No.P.
Copy of the above is forwarded to the Public Prosecutor,Bangalore for information.

By Order,

For Legal Remembrancer & Secy L.D.

To

The Muzrai Commissioner in Mysore.

Sir,

I am directed to invite reference to the Financial Secretary's letter No. 1119 Muz. 16-25-6 dated 11th January 1928 authorising the taking of proceedings under section 92 C.P.C. for getting late Nagadi Krishnappa's properties in Chikballapur sold and to state that a draft plaint in the matter has been received here now from Public Prosecutor Bangalore for scrutiny. The records sent therewith contains a copy of the will, which however is partly torn and partly illegible and cannot be deciphered. The Public Prosecutor,Bangalore who was asked to obtain and send a clear copy says that the Sub Division Officer writes that he has no copy available in his office. The will was the source of much litigation, its gennuiness having been finally affirmed by the Chief Court in R.A. 64-7 of- 1910-11

Since an examination of the terms of the will is now necessary, I am directed to request you to obtain and send a copy of it immediately

I have etc.,

Legal Remembrancer & Secy.L.D.

ISD

S. P. RAJAGOPALACHARI, ESQ., B.A., B.L.,
Muzrai Commissioner in Mysore.

Law 103-30-5

ıjasevaparayana

B.Srinivasa Iyengar,Esq.,B.A.,B.L.,

Secretary to Government of His Highness
the Maharaja of Mysore,
Financial *Department.*

SIR,

With reference to your letter No.P.7088/Law. dated the 4th May 1931 calling for a copy of the will executed by late Nagadi Krishnappa Chikballpur to scrutinize the draft plaint to be filed in the District Court in the matter of getting the bequethed properties sold, I have t honor to forward herewith a copy of the will obtained from the testato sister Lakshmamma and received with the Kolar District Deputy Commissi letter No.A2.C.1660/27-28 dated the 16th July 1931.

It is reported that the will has not been registered.

Enclosures received with the Deputy Commissioner's letter ar herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,

SRajagopa

Muzrai Commissioner.

Appendix F G—17

SUBJECT .....

.....

.....

Section Land

File No. 103-30

Serial No.

Diary No. of letter replied to .....

No. P 1691

To The Muzrai Commr

Sir,

General and Revenue Secretariat

( )

the *193*

With reference to the Correspondence ending with Your letter no 139/27-28 dated 2nd July 1931 re: the proposed Suit under Sec 92 of the Code of Civil procedure for obtaining Sanction of the Dist. Court to the Sale of the property of the late Mr Nagadi Krishnappa of Chickballapur. I am directed to state that since doubts were felt re the necessity of obtaining the Sanction of the Civil Court for the purpose of enabling the Govt to sell the

Date of issue 18/8/31

Signed by Asst. to R. Jaya Rao

List of enclosures .....

Copied by [illegible] 17/8

Examined by .....

of Govt, the Govt Advocate
was Consulted in the matter.
In view of the opinion given
by him (Copy of which is here
sent for ready reference) I am
to request that early action may
be taken by you to sell the
property in the best manner possible
and to invest the proceeds realised
therefrom in approved Securities
Proposals ~~in due~~ ~~Course~~
may be sent in due Course
for the framing of a Scheme
to Carry out the object of the
Charity Created by the donor
The enclosures to your letter
are herewith returned.

1418 P 1/31

GENERAL SECRETARY 17

28 SEP 1931

192 No.

From
The public prosecutor,
Bangalore.

To
The General Secretary
to the Government of Mysore
Bangalore

Dated 26.9.31

Despatched 26.9.31

Received

General No. 123/31-32
No.

Enclosure No. 1 Bill for Rs 50/-

Appendix F G—1]

SUBJECT .....

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	Section
	File No.
	Serial No.

H.V.Ramaswami,Esq., M.A., B.L.,

The Public Prosecutor,

Bangalore.

In returning herewith your bill of remuneration for services rendered in drafting a plaint in the proposed suit re: Nagadi Krishnappa's Charity forwarded with your letter No.123/31-3 dated 26th September 1931, I am directed to inform you that it is to be sent in the first instance to the officer who instructed you in the matter.

I have the honour to be,

Sir,

Your most obedient servant,

For General Secretary to Government.